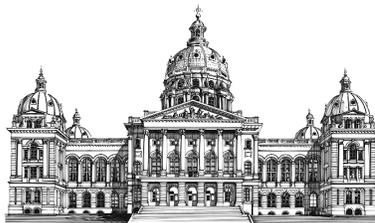


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# Iowa Legislative Fiscal Bureau

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## Crime Bills From The 2001 Legislative Session

### ISSUE

This *Issue Review* provides a summary of crime legislation enacted by the 2001 General Assembly.

### AFFECTED AGENCIES

Department of Corrections (DOC), Board of Parole, Community-Based Corrections (CBC) District Departments, Department of Justice, Judicial Branch, Department of Public Safety, Office of the State Public Defender.

### BILL SUMMARIES

#### **DETERMINATE SENTENCING ACT - SF 543**

This Act:

- Changes the penalties for certain burglaries and attempted burglaries in the third degree.
- Provides for determinate sentencing (the offender is required to serve a set term) for certain Class D felons with an additional indeterminate term for no more than two years on supervised release.
- Assigns these Class D offenders to the CBC criminal sanctions continuum upon their release from prison.
- Provides for sentence reconsideration for up to one year of a felon's sentencing date. Under current law, the sentence must be reconsidered within 90 days of the sentencing date.
- Requires the Department of Corrections, the Department of Human Rights' Criminal and Juvenile Justice Planning Division, and the Prosecuting Attorneys Training Coordinator to compile and provide information about determinate sentencing through the Iowa Bar Association to educate attorneys and judges.

During FY 2002, it is estimated that 95 offenders will be convicted of an aggravated misdemeanor for certain burglaries in the third degree. Under current law, these convictions are Class D felonies. It is estimated that 27 offenders will be convicted of a serious

misdemeanor for certain attempted burglaries in the third degree. Under current law, these convictions would be aggravated misdemeanors. During FY 2003, it is estimated that 190 offenders will be convicted of an aggravated misdemeanor for certain burglaries in the third degree. Under current law, these convictions are Class D felonies. It is estimated that 53 offenders will be convicted of a serious misdemeanor for certain attempted burglaries in the third degree. Under current law, these convictions would be aggravated misdemeanors.

Based on these estimated convictions, the prison population will decrease by 13 inmates during FY 2002, 91 inmates during FY 2003, and 116 inmates during FY 2006. Admissions to CBC residential facilities will decrease by 6 offenders during FY 2002, and 12 offenders during FY 2003 and annually thereafter. Admissions to probation and parole supervision will increase by 37 offenders during FY 2002 and 74 offenders each year thereafter.

Senate File 543 is expected to impact county jail admissions as follows:

- 29 more admissions for aggravated misdemeanors with an average length of stay of 41 days.
- 25 more admissions for serious misdemeanors with an average length of stay of 50 days.
- 23 fewer admissions for Class D felons with an average length of stay of 187 days.

Senate File 543 is expected to result in a decrease of State criminal justice system costs of \$306,000 during FY 2002 and \$989,000 during FY 2003 as follows:

- State prison costs are expected to decrease by \$76,000 during FY 2002 and \$531,000 during FY 2003.
- CBC costs are expected to increase by \$9,000 during FY 2002 and \$18,000 during FY 2003.
- Indigent defense costs are expected to decrease by \$7,000 during FY 2002 and \$13,000 during FY 2003.
- Judicial Branch costs are expected to decrease by \$232,000 during FY 2002 and \$463,000 during FY 2003.

The State prison system was operating at 118.9% of design capacity on October 5, 2001. The savings noted above may be a cost containment effort rather than an actual decrease in the operating budgets. Community-Based Corrections residential facilities are currently operating at 100.0% of capacity. The facilities have waiting lists of offenders scheduled to serve time in the facilities. Rather than a savings in the facilities' operating budgets, the number of offenders on the waiting lists may decrease compared to current law.

County costs for operating jails are expected to decrease by \$23,000 during FY 2002 and \$47,000 during FY 2003 as a result of SF 543. While admissions to jails are expected to increase, jails will experience a savings in the operating budgets since more offenders will serve less time compared to current law.

## **VICTIM COMPENSATION ACT - SF 259**

This Act expands the authority of the Department of Justice to allow moneys from the Victim Compensation Fund to be used for the Department's prosecutor-based victim services coordination

and the Department's restitution and victim rights duties. The Act also permits up to \$100,000 from the Victim Compensation Fund to be used to provide training for victim service providers.

Senate File 259 is expected to result in additional costs to the Victim Compensation Fund of approximately \$180,000 annually. Of this amount, \$100,000 may be used for training victim service providers, while \$80,000 will be used to fund two victim-witness coordinators. The Justice System Appropriations Act, SF 530, permits the Department to fund these 2.0 FTE positions from the Victim Compensation Fund.

### **SIXTH JUDICIAL DISTRICT DEPARTMENT OF CORRECTIONAL SERVICES - SJR 3**

This Resolution authorizes the extension of a current lease-purchase agreement, or allows the District Department to enter into a new lease-purchase agreement, for the acquisition of approximately 10 acres of land next to the residential facility in Cedar Rapids. Senate Joint Resolution 3 acknowledges that the Sixth Judicial District Department has adequate funding to meet the increased cost associated with the financing agreement. The fiscal impact of SJR 3 is an increase in District Department expenses of approximately \$340,000 over the next seven years. The District Department has stated it will use local funds to meet the increased costs of refinancing the agreement, or entering into a new lease-purchase agreement.

### **HEALTHY IOWANS TOBACCO TRUST ACT - SF 537**

The Act appropriates a total of \$57.2 million from the Healthy Iowans Tobacco Trust for FY 2002. Provisions affecting the criminal justice system include:

#### **Department of Public Health:**

- \$11.8 million for substance abuse treatment.

#### **Community-Based Corrections District Departments:**

- \$127,000 to District II for day programming.
- \$35,000 to District III for a drug court.
- \$192,000 to District IV for a drug court.
- \$256,000 to District V for a drug court.

Senate File 537 requires the Department of Public Health to establish a substance abuse treatment facility for probationers. The facility will provide a structured substance abuse treatment program for offenders on probation to CBC. The Department of Public Health and the Department of Corrections are required to enter into a contract to provide security for the facility. The CBC District Departments may, with the approval of the Department of Public Health, place a probationer in the facility.

The Department of Public Health has proposed renting a vacant facility in Knoxville from the Veterans Administration. The building needs to be renovated. The facility will have 100 beds with a proposed six-month length of stay. It is estimated 200 offenders will be served per year, assuming the facility operates at 100% of capacity.

The new treatment facility will result in a reduction of admissions to prison by 50 inmates in FY 2002, and 100 inmates annually thereafter. It is estimated that the prison population will decrease by 50 inmates during FY 2002, 142 inmates during FY 2003, and 167 inmates by FY 2006. This impact assumes that 50.0% of the offenders admitted to the substance abuse treatment facility would have been revoked to prison prior to the new program. If admissions to the treatment facility vary significantly from this estimate, the correctional impact will vary accordingly.

The reduction in the number of inmates is expected to reduce State prison costs by \$292,000 during FY 2002 and \$829,000 in FY 2003. The State prison system was operating at 118.9% of design capacity on October 5, 2001. This Act may result in cost containment rather than cost reduction in the State prison system.

Senate File 537 appropriates \$2.0 million for FY 2002 to operate the facility. The FY 2003 costs are estimated to be \$3.8 million for the Department of Public Health. This estimated annualized operating cost deducts FY 2002 one-time start-up costs and provides a full year of funding for salary and support costs.

#### **LAW ENFORCEMENT SURCHARGE - SF 486**

The Act imposes an automatic \$125 surcharge on targeted convictions or deferred sentences. The following convictions are changed by the Act: Drug Offenses (all of Chapters 124, 155A and 453A, Code of Iowa), burglary (all of Chapter 713); theft (all of Chapter 714); forgery/credit cards (all of Chapter 715A); furnishing drugs to inmates (Section 719.8); vandalism (all of Chapter 716); and prostitution/pimping/pandering (within Chapter 725).

The Act is estimated to generate \$1.2 million in General Fund revenue in FY 2002 and \$2.7 million in FY 2003.

#### **MANUFACTURED HOMES - SF 185**

The Act provides for certification of manufactured home installers pursuant to rules adopted by the State Building Code Commissioner. All fees collected are to be credited to the General Fund and are to be appropriated to the Commissioner to pay the costs of administering the certification process. The Act established a civil penalty not to exceed \$1,000 per violation, which may be assessed by the State building code commissioner against a person who violates Chapter 103, Code of Iowa.

Senate File 185 is estimated to generate approximately \$76,000 in license and inspection fees that may be used for salary and support for one inspector to implement the certification and inspection process. Revenues in FY 2003 are expected to be \$56,000.

#### **SCHEDULED FEES AND FINES - SF 499**

This Act changes certain scheduled fees and fines in the State of Iowa. **Table 1** below shows the change in fees and fines enacted in SF 499. A list of all scheduled fees and fines that have been changed by SF 499 is available upon request.

**Table 1  
Change in Fees and Fines**

Original Fee/Fine	New Fee/Fine	Increase/ (Decrease)	Number of Fees & Fines Affected
\$5	\$10	\$5	6
5	15	10	1
10	15	5	9
10	25	15	2
10	50	40	1
15	25	10	7
15	35	20	17
15	50	35	2
20	30	10	9
20	35	15	24
25	35	10	5
25	50	25	2
25	100	75	5
50	100	50	2
100	250	150	1
20	10	(10)	1
100	30	(70)	2
100	35	(65)	1
100	50	(50)	4

It is estimated that Senate File 499 will increase fine revenues by \$1.6 million in FY 2002 and \$1.8 million in FY 2003. The Act also is estimated to increase revenue in the Victim Compensation Fund by \$80,000 in FY 2002 and \$90,000 in FY 2003. The Road Use Tax Fund is estimated to increase by \$8,000 in FY 2002 and \$9,000 in FY 2003.

#### **FELONIOUS MISCONDUCT - HF 272**

This Act prohibits a public officer or employee from falsifying a writing, or knowingly delivering a falsified writing that will become a public record of a government body. The effect of HF 272 is to apply existing penalties earlier in a document's life cycle. The penalty for felonious misconduct in office is a Class D felony, which is punishable by confinement for no more than five years and a fine of at least \$750 but no more than \$7,500. House File 272 is not expected to have a significant correctional or fiscal impact.

#### **ESCAPE FROM CUSTODY - SF 94**

This Act creates a new criminal offense of escape from custody by a sexually violent predator civilly committed under Chapter 229A, Code of Iowa. A person that commits a violation of the provisions of SF 94 commits a simple misdemeanor or may be subject to contempt proceedings.

No sexually violent predator has escaped from the civil commitment unit. The risk of a civilly committed person escaping is low. Therefore, the correctional impact under SF 94 is expected to be minimal.

The fiscal impact of SF 94 is expected to be minimal. The maximum cost for the State for one simple misdemeanor case is \$600. Counties may incur additional costs of \$175 for holding an escapee, pending return to the civil commitment unit. This information excludes transportation costs.

**ENTICEMENT OF MINORS - HF 327**

This Act amends Section 710.10, Code of Iowa, by changing terminology from enticing away a child to enticing away a minor, and changes the penalties. The Act increases the penalty from a Class D felony to a Class C felony in cases where sexual abuse or sexual exploitation of a minor was intended. House File 327 increases the penalty from an aggravated misdemeanor to a Class D felony in cases involving enticing away a minor less than 16 years of age. The Act creates an aggravated misdemeanor for attempting to entice away a minor. The Act increases the penalty from a serious misdemeanor to an aggravated misdemeanor or Class D felony for purchasing or possessing media depicting minors in prohibited sexual acts. The Act facilitates prosecution and conviction of people who use the Internet to entice or attempt to entice minors. A graduated system of penalties is imposed for this offense. The Act adds enticing away a minor under the age of 13 to the list of sexually predatory offenses.

The correctional and fiscal impact of HF 327 cannot be determined for the provisions of the Act relating to prosecution and conviction of using the Internet to entice or attempt to entice away a minor. The fiscal and correctional impact will be affected by the priority law enforcement places on the apprehension and prosecution of these offenders. There will be additional convictions beyond what is shown in the fiscal note issued for the Act, and the likelihood of a correctional impact on State prisons will increase, if law enforcement places a high priority on apprehending and prosecuting those who use the Internet to entice away a minor.

House File 327 is expected to result in two more jail admissions during FY 2002, and three more admissions annually thereafter. On an annual basis, there will be one more aggravated misdemeanor case for attempting to entice away a minor. There were seven convictions during FY 2000 for purchasing or possessing media depicting minors in prohibited sexual acts. Under HF 327, these serious misdemeanor convictions will be aggravated misdemeanor convictions that are estimated to result in one additional admission to probation. Convicted offenders already on probation will serve a longer sentence.

The fiscal impact of HF 327 for the State General Fund is increased costs of \$10,000 for FY 2002 and \$11,000 for FY 2003. These costs include probation supervision, indigent defense, and court costs (costs for the Clerk of Court, court reporter, judges, and juries). The fiscal impact on county jails is estimated to be \$2,000 during FY 2002 and \$4,000 annually thereafter.

**PROBATION AND PAROLE INTERSTATE COMPACT - HF 287**

This Act replaces the current Interstate Compact for probation and parole. The Act creates an independent Compact authority to administer ongoing Compact activity, including a provision for staff support. The Act provides policy-making level appointments for all member states that are represented on a national governing commission. The commission meets annually to elect the Compact operating authority members, and to attend to general business and rule-making procedures. The Act requires the collection of standardized information from participating states.

House File 287 provides a mandatory funding mechanism to support Compact operations. The funding source will be the operating budgets of the eight CBC District Departments. State dues will be based on state population and Compact activity. The annual increased General Fund cost for Iowa is approximately \$25,000.

**CHILD ENDANGERMENT - SF 63**

This Act expands the definition of persons that may be charged with child endangerment to include a person in the household in which a child or minor resides. Senate File 63 provides that child endangerment includes actions intended to cause bodily injury. Prior to the enactment of SF 63, such acts were limited to serious injury. The Act imposes a non-forcible Class D felony for child endangerment resulting in bodily injury. Previously, child endangerment not resulting in serious injury was a serious misdemeanor.

It is estimated there will be eight fewer jail admissions during FY 2002, and 16 fewer admissions each year thereafter. On an annual basis, there will be three fewer child endangerment cases, five fewer simple misdemeanor assault cases, and eight fewer serious misdemeanor assault cases.

Admissions to the State prison and CBC systems will increase. There will be an estimated 19 new admissions to the prison system in FY 2002 and 37 new admissions during FY 2003 and each year thereafter. The prison population will increase by an estimated 19 inmates during FY 2002, 58 inmates during FY 2003, and 73 inmates during FY 2006.

Admissions to CBC residential facilities are estimated to increase by two during FY 2002 and four each year thereafter. Admissions to street supervision (parole and probation) will increase by 10 during FY 2002, 21 in FY 2003, and 58 in FY 2006.

Total State criminal justice system (prisons, CBC, and Judicial Branch) cost of SF 63 ranges from \$265,000 to \$406,000 for FY 2002. Total State costs for FY 2003 range from \$506,000 to \$650,000.

Total statewide savings for county jails are estimated to be \$7,000 during FY 2002 and \$14,000 annually thereafter.

**DEPARTMENT OF CORRECTIONS BILL - SF 346**

Senate File 346 relates to various issues including: inmates convicted of misdemeanor offenses that escape from prison, canteen funds within the prison system, presentence investigation reports, a training fund, and recording of testimony. The Act also creates a new crime, bestiality that is punishable as an aggravated misdemeanor. The definition of "child abuse" is amended to include the commission of bestiality in the presence of a minor by a person who resides in a home with a child, as a result of the acts or omissions of a person responsible for the care of the child.

Senate File 346 is expected to have minimal correctional or fiscal impact.

**UNIFORM CITATION - SF 83**

This Act amends Section 805.6, Code of Iowa, requiring a signature on a uniform citation. Legislation was introduced after the Supreme Court ruled in City of Cedar Rapids v. Atsinger that stated the currently used uniform citations were insufficient to initiate prosecution since the oath was not administered properly. No fiscal impact is expected for this Act.

**SAFE HAVEN - SF 355**

This Act provides for the release of custody and termination of parental rights for newborn infants age 14 days and younger whose parent or person authorized on the parent's behalf relinquishes physical custody at designated health facilities. No fiscal impact could be determined, however, the estimate for one abandonment would be approximately \$26,000 from the General Fund.

**DOMESTIC ABUSE FILING FEE - SF 347**

This Act eliminates Court costs and filing and service fees for plaintiffs seeking relief from domestic abuse. Senate File 347 permits the Court to order the defendant to pay the Clerk of Court for filing and service fees. The Legislation brings Iowa into compliance with a federal mandate that would have cost the State \$1.4 million in federal funds. The estimated fiscal impact of this Act is a General Fund decrease of approximately \$100,000 a year in filing and service fees.

**INCEST STATUTE OF LIMITATIONS - HF 458**

This Act extends the statute of limitations period for filing a criminal charge of incest to ten years after the victim reaches the age of eighteen. An indictment or information for sexual exploitation by a counselor or therapist has been extended to ten years after the victim reaches the age of eighteen. The approximate justice system cost of one person convicted of incest is \$17,000. No cost estimate is available for increased cases filed with the Court.

**HIV TRANSMISSION SEX OFFENDER - HF 550**

This Act adds the transmission of human immunodeficiency virus to the list of criminal offenses that require registration under the sex offender registry. There was no fiscal impact estimated for this Act.

More information concerning these Acts is available from the LFB's web site:  
<http://staffweb.legis.state.ia.us/lfb>.

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Crime Bills From The 2001 Legislative Session  
<http://staffweb.legis.state.ia.us/lfb/IREVIEW/ireview.htm>  
LFB: IRBAL000.Doc/11/19/01/3:50 pm/fc